

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at GREENEVILLE

FIGEL G. RHEA)
)
v.) Nos.: 2:13-cv-166; 2:06-cr-33
)
UNITED STATES OF AMERICA)

MEMORANDUM and ORDER

Petitioner Figel G. Rhea's motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255 was denied by a judgment order issued on October 19, 2010, (Doc. 72).¹ Petitioner has returned to the Court with another "Motion to Vacate, Set Aside or Correct Sentence under 28 U.S.C. § 2255 by a Prisoner in Federal Custody," (Doc. 74). In this submission, petitioner cites to *United States v. Simmons*, 649 F.3d 237 (4th Cir. 2010), and *United States v. Spangler*, 458 F.3d. Appx. 237 (4th Cir. 2011), as support for his assertion that he was given an illegal and unauthorized sentence enhancement penalty as a career offender for his conviction of being a felon in possession of ammunition, in violation of 18 U.S.C. §924(g)(1). As noted, petitioner's § 2255 motion was dismissed earlier—indeed, more than two and one-half years ago. One of the claims raised in that earlier petition was that his counsel was ineffective for failing to challenge his armed career criminal enhancements. The Court found otherwise, based on petitioner's stipulation to three prior predicate North Carolina convictions, which were considered to be violent felonies, as set forth in § 924(e)(1).

¹ This and all subsequent references to the record will refer to the documents filed in Criminal Case Number 2:06-cr-33.

Petitioner has not received certification from the Sixth Circuit authorizing this Court to consider a second or successive § 2255 motion, and this is a precondition to filing the instant motion in a district court. *See 28 U.S.C. § 2244(b)(3).* Because district courts must transfer second or successive § 2255 motions filed without such authorization to the circuit court, the Clerk is **DIRECTED** to **TRANSFER** this action to the Sixth Circuit, pursuant to 28 U.S.C. § 1631. *See Sims v. Terbush*, 111 F.3d 45, 47 (6th Cir. 1997).

SO ORDERED.

ENTER:

s/J. RONNIE GREER
UNITED STATES DISTRICT JUDGE